

AN ACT
RELATING TO THE IOWA HEALTH INFORMATION NETWORK, AND INCLUDING
EFFECTIVE DATE PROVISIONS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I
IOWA HEALTH INFORMATION NETWORK — FUTURE ADMINISTRATION BY
DESIGNATED ENTITY

Section 1. NEW SECTION. 135D.1 **Short title.**

This chapter shall be known and may be cited as the "*Iowa Health Information Network Act*".

Sec. 2. NEW SECTION. 135D.2 **Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "*Board of directors*" or "*board*" means the entity that governs and administers the Iowa health information network.
2. "*Care coordination*" means the management of all aspects of a patient's care to improve health care quality.
3. "*Department*" means the department of public health.

4. *Designated entity* means the nonprofit corporation designated by the department through a competitive process as the entity responsible for administering and governing the Iowa health information network.

5. *Exchange* means the authorized electronic sharing of health information between health care professionals, payors, consumers, public health agencies, the designated entity, the department, and other authorized participants utilizing the Iowa health information network and Iowa health information network services.

6. *Health care professional* means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or in the practice of a profession.

7. *Health information* means health information as defined in 45 C.F.R. §160.103 that is created or received by an authorized participant.

8. *Health information technology* means the application of information processing, involving both computer hardware and software, that deals with the storage, retrieval, sharing, and use of health care information, data, and knowledge for communication, decision making, quality, safety, and efficiency of clinical practice, and may include but is not limited to:

a. An electronic health record that electronically compiles and maintains health information that may be derived from multiple sources about the health status of an individual and may include a core subset of each care delivery organization's electronic medical record such as a continuity of care record or a continuity of care document, computerized physician order entry, electronic prescribing, or clinical decision support.

b. A personal health record through which an individual and any other person authorized by the individual can maintain and manage the individual's health information.

c. An electronic medical record that is used by health care professionals to electronically document, monitor, and manage health care delivery within a care delivery organization, is the legal record of the patient's encounter with the care delivery organization, and is owned by the care delivery organization.

d. A computerized provider order entry function that permits the electronic ordering of diagnostic and treatment services, including prescription drugs.

e. A decision support function to assist physicians and

other health care providers in making clinical decisions by providing electronic alerts and reminders to improve compliance with best practices, promote regular screenings and other preventive practices, and facilitate diagnosis and treatments.

f. Tools to allow for the collection, analysis, and reporting of information or data on adverse events, the quality and efficiency of care, patient satisfaction, and other health care-related performance measures.

9. "*Health Insurance Portability and Accountability Act*" or "*HIPAA*" means the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, including amendments thereto and regulations promulgated thereunder.

10. "*Hospital*" means a licensed hospital as defined in section 135B.1.

11. "*Interoperability*" means the ability of two or more systems or components to exchange information or data in an accurate, effective, secure, and consistent manner and to use the information or data that has been exchanged and includes but is not limited to:

a. The capacity to connect to a network for the purpose of exchanging information or data with other users.

b. The ability of a connected, authenticated user to demonstrate appropriate permissions to participate in the instant transaction over the network.

c. The capacity of a connected, authenticated user to access, transmit, receive, and exchange usable information with other users.

12. "*Iowa health information network*" or "*network*" means the statewide health information technology network that is the sole statewide network for Iowa pursuant to this chapter.

13. "*Iowa Medicaid enterprise*" means the centralized medical assistance program infrastructure, based on a business enterprise model, and designed to foster collaboration among all program stakeholders by focusing on quality, integrity, and consistency.

14. "*Participant*" means an authorized health care professional, payor, patient, health care organization, public health agency, or the department that has agreed to authorize, submit, access, or disclose health information through the Iowa health information network in accordance with this chapter and all applicable laws, rules, agreements, policies, and standards.

15. "*Patient*" means a person who has received or is

receiving health services from a health care professional.

16. *"Payor"* means a person who makes payments for health services, including but not limited to an insurance company, self-insured employer, government program, individual, or other purchaser that makes such payments.

17. *"Protected health information"* means protected health information as defined in 45 C.F.R. §160.103 that is created or received by an authorized participant.

18. *"Public health activities"* means actions taken by a participant in its capacity as a public health authority under the Health Insurance Portability and Accountability Act or as required or permitted by other federal or state law.

19. *"Public health agency"* means an entity that is governed by or contractually responsible to a local board of health or the department to provide services focused on the health status of population groups and their environments.

20. *"Record locator service"* means the functionality of the Iowa health information network that queries data sources to locate and identify potential patient records.

Sec. 3. NEW SECTION. 135D.3 Iowa health information network — findings and intent.

1. The general assembly finds all of the following:

a. Technology used to support health care-related functions is known as health information technology. Health information technology provides a mechanism to transform the delivery of health and medical care in Iowa and across the nation.

b. Health information technology is rapidly evolving to contribute to the goals of improving the experience of care, improving the health of populations, and reducing per capita costs of health care.

c. A health information network involves the secure electronic sharing of health information across the boundaries of individual practice and institutional health settings and with consumers. The broad use of health information technology and a health information network should improve health care quality and the overall health of the population, increase efficiencies in administrative health care, reduce unnecessary health care costs, and help prevent medical errors.

d. All health information technology efforts shall endeavor to represent the interests and meet the needs of consumers and the health care sector, protect the privacy of individuals and the confidentiality of individuals' information, promote best practices, and make information easily accessible to

the members of the patient-centered care coordination team, including but not limited to patients, providers, and payors.

2. It is the intent of the general assembly that the Iowa health information network shall not constitute a health benefit network or a health insurance network.

Sec. 4. NEW SECTION. 135D.4 Iowa health information network — principles — technical infrastructure requirements.

1. The Iowa health information network shall be administered and governed by a designated entity using, at a minimum, the following principles:

- a.* Be patient-centered and market-driven.
- b.* Comply with established national standards.
- c.* Protect the privacy of consumers and the security and confidentiality of all health information.
- d.* Promote interoperability.
- e.* Increase the accuracy, completeness, and uniformity of data.
- f.* Preserve the choice of the patient to have the patient's health information available through the record locator service.
- g.* Provide education to the general public and provider communities on the value and benefits of health information technology.

2. Widespread adoption of health information technology is critical to a successful Iowa health information network and is best achieved when all of the following occur:

- a.* The network, through the designated entity complying with chapter 504 and reporting as required under this chapter, operates in an entrepreneurial and businesslike manner in which it is accountable to all participants utilizing the network's products and services.
- b.* The network provides a variety of services from which to choose in order to best fit the needs of the user.
- c.* The network is financed by all who benefit from the improved quality, efficiency, savings, and other benefits that result from use of health information technology.
- d.* The network is operated with integrity and freedom from political influence.

3. The Iowa health information network technical infrastructure shall provide a mechanism for all of the following:

- a.* The facilitation and support of the secure electronic exchange of health information between participants.

b. Participants without an electronic health records system to access health information from the Iowa health information network.

4. Nothing in this chapter shall be interpreted to impede or preclude the formation and operation of regional, population-specific, or local health information networks or the participation of such networks in the Iowa health information network.

Sec. 5. NEW SECTION. 135D.5 **Designated entity — administration and governance.**

1. The Iowa health information network shall be administered and governed by a designated entity selected by the department through a competitive process. The designated entity shall be established as a nonprofit corporation organized under chapter 504. Unless otherwise provided in this chapter, the corporation is subject to the provisions of chapter 504. The designated entity shall be established for the purpose of administering and governing the statewide Iowa health information network.

2. The designated entity shall collaborate with the department, but the designated entity shall not be considered, in whole or in part, an agency, department, or administrative unit of the state.

a. The designated entity shall not be required to comply with any requirements that apply to a state agency, department, or administrative unit and shall not exercise any sovereign power of the state.

b. The designated entity does not have authority to pledge the credit of the state. The assets and liabilities of the designated entity shall be separate from the assets and liabilities of the state and the state shall not be liable for the debts or obligations of the designated entity. All debts and obligations of the designated entity shall be payable solely from the designated entity's funds. The state shall not guarantee any obligation of or have any obligation to the designated entity.

3. The articles of incorporation of the designated entity shall provide for its governance and its efficient management. In providing for its governance, the articles of the designated entity shall address the following:

a. A board of directors to govern the designated entity.

b. The appointment of a chief executive officer by the board to manage the designated entity's daily operations.

c. The delegation of such powers and responsibilities to the chief executive officer as may be necessary for the designated entity's efficient operation.

d. The employment of personnel necessary for the efficient performance of the duties assigned to the designated entity. All such personnel shall be considered employees of a private, nonprofit corporation and shall be exempt from the personnel requirements imposed on state agencies, departments, and administrative units.

e. The financial operations of the designated entity including the authority to receive and expend funds from public and private sources and to use its property, money, or other resources for the purpose of the designated entity.

Sec. 6. NEW SECTION. 135D.6 Board of directors — composition — duties.

1. The designated entity shall be administered by a board of directors.

2. A single industry shall not be disproportionately represented as voting members of the board. The board shall include at least one member who is a consumer of health services and a majority of the voting members of the board shall be representative of participants in the Iowa health information network. The director of public health or the director's designee and the director of the Iowa Medicaid enterprise or the director's designee shall act as voting members of the board. The commissioner of insurance shall act as an ex officio, nonvoting member of the board. Individuals serving in an ex officio, nonvoting capacity shall not be included in the total number of individuals authorized as members of the board.

3. The board of directors shall do all of the following:

a. Ensure that the designated entity enters into contracts with each state agency necessary for state reporting requirements.

b. Develop, implement, and enforce the following:

(1) A single patient identifier or alternative mechanism to share secure patient information that is utilized by all health care professionals.

(2) Standards, requirements, policies, and procedures for access to, use, secondary use, privacy, and security of health information exchanged through the Iowa health information network, consistent with applicable federal and state standards and laws.

c. Direct a public and private collaborative effort to promote the adoption and use of health information technology in the state to improve health care quality, increase patient safety, reduce health care costs, enhance public health, and empower individuals and health care professionals with comprehensive, real-time medical information to provide continuity of care and make the best health care decisions.

d. Educate the public and the health care sector about the value of health information technology in improving patient care, and methods to promote increased support and collaboration of state and local public health agencies, health care professionals, and consumers in health information technology initiatives.

e. Work to align interstate and intrastate interoperability standards in accordance with national health information exchange standards.

f. Provide an annual budget and fiscal report for the Iowa health information network to the governor, the department of public health, the department of management, the chairs and ranking members of the legislative government oversight standing committees, and the legislative services agency. The report shall also include information about the services provided through the network and information on the participant usage of the network.

Sec. 7. NEW SECTION. 135D.7 Legal and policy — liability — confidentiality.

1. The board shall implement industry-accepted security standards, policies, and procedures to protect the transmission and receipt of protected health information exchanged through the Iowa health information network, which shall, at a minimum, comply with HIPAA and shall include all of the following:

a. A secure and traceable electronic audit system to document and monitor the sender and recipient of health information exchanged through the Iowa health information network.

b. A required standard participation agreement which defines the minimum privacy and security obligations of all participants using the Iowa health information network and services available through the Iowa health information network.

c. The opportunity for a patient to decline exchange of the patient's health information through the record locator service of the Iowa health information network.

(1) A patient shall not be denied care or treatment for

declining to exchange the patient's health information, in whole or in part, through the network.

(2) The board shall provide the means and process by which a patient may decline participation. The means and process utilized shall minimize the burden on patients and health care professionals.

(3) Unless otherwise authorized by law or rule, a patient's decision to decline participation means that none of the patient's health information shall be accessible through the record locator service function of the Iowa health information network. A patient's decision to decline having health information shared through the record locator service function shall not limit a health care professional with whom the patient has or is considering a treatment relationship from sharing health information concerning the patient through the secure messaging function of the Iowa health information network.

(4) A patient who declines participation in the Iowa health information network may later decide to have health information shared through the network. A patient who is participating in the network may later decline participation in the network.

2. A participant shall not be compelled by subpoena, court order, or other process of law to access health information through the Iowa health information network in order to gather records or information not created by the participant.

3. A participant exchanging health information and data through the Iowa health information network shall grant to other participants of the network a nonexclusive license to retrieve and use that information in accordance with applicable state and federal laws, and the policies and standards established by the board.

4. A health care professional who relies reasonably and in good faith upon any health information provided through the Iowa health information network in treatment of a patient who is the subject of the health information shall be immune from criminal or civil liability arising from the damages caused by such reasonable, good-faith reliance. Such immunity shall not apply to acts or omissions constituting negligence, recklessness, or intentional misconduct.

5. A participant who has disclosed health information through the Iowa health information network in compliance with applicable law and the standards, requirements, policies, procedures, and agreements of the network shall not be subject

to criminal or civil liability for the use or disclosure of the health information by another participant.

6. The following records shall be confidential records pursuant to chapter 22, unless otherwise ordered by a court or consented to by the patient or by a person duly authorized to release such information:

a. The health information contained in, stored in, submitted to, transferred or exchanged by, or released from the Iowa health information network.

b. Any health information in the possession of the board due to its administration of the Iowa health information network.

7. Unless otherwise provided in this chapter, when sharing health information through the Iowa health information network or a private health information network maintained in this state that complies with the privacy and security requirements of this chapter for the purposes of patient treatment, payment or health care operations, as such terms are defined in HIPAA, or for the purposes of public health activities or care coordination, a participant authorized by the designated entity to use the record locator service is exempt from any other state law that is more restrictive than HIPAA that would otherwise prevent or hinder the exchange of patient information by the participant.

8. A patient aggrieved or adversely affected by the designated entity's failure to comply with subsection 1, paragraph "c", may bring a civil action for equitable relief as the court deems appropriate.

Sec. 8. REPEAL. Sections 135.154, 135.155, 135.155A, 135.156, 135.156A, 135.156B, 135.156C, 135.156D, 135.156E, and 135.156F, are repealed upon the assumption of the administration and governance, including but not limited to the assumption of the assets and liabilities, of the Iowa health information network by the designated entity. The department of public health shall notify the Code editor of the date of such assumption by the designated entity.

Sec. 9. EFFECTIVE DATES. This division of this Act takes effect upon the assumption of the administration and governance, including but not limited to the assumption of the assets and liabilities, of the Iowa health information network by the designated entity. The department of public health shall notify the Code editor of the date of such assumption by the designated entity.

SELECTION OF DESIGNATED ENTITY
AND TRANSITION PROVISIONS

Sec. 10. Section 135.154, Code 2015, is amended by adding the following new subsections:

NEW SUBSECTION. 3A. "*Care coordination*" means the management of all aspects of a patient's care to improve health care quality.

NEW SUBSECTION. 19A. "*Public health activities*" means actions taken by a participant in its capacity as a public health authority under the Health Insurance Portability and Accountability Act or as required or permitted by other federal or state law.

NEW SUBSECTION. 23. "*Record locator service*" means the functionality of the Iowa health information network that queries data sources to locate and identify potential patient records.

Sec. 11. Section 135.155, subsection 2, Code 2015, is amended by adding the following new paragraph:

NEW PARAGRAPH. *f.* Preserve the choice of the patient to have the patient's health information available through the record locator service.

Sec. 12. Section 135.156E, subsections 2 and 13, Code 2015, are amended to read as follows:

2. A patient shall have the opportunity to decline exchange of the patient's health information through the record locator service of the Iowa health information network. A patient shall not be denied care or treatment for declining to exchange the patient's health information, in whole or in part, through the record locator service of the Iowa health information network. The board shall provide by rule the means and process by which patients may decline participation. The means and process utilized under the rules shall minimize the burden on patients and health care professionals.

13. Unless otherwise provided in this division, when ~~using~~ sharing health information through the Iowa health information network or a private health information network maintained in this state that complies with the privacy and security requirements of this chapter for the purposes of patient treatment, payment, or health care operations, as such terms are defined in the Health Insurance Portability and Accountability Act, or for the purposes of public health activities or care coordination, ~~a health care professional or a hospital~~ participant authorized to use the record

locator service is exempt from any other state law that is more restrictive than the Health Insurance Portability and Accountability Act that would otherwise prevent or hinder the exchange of patient information by ~~the patient's health care professional or hospital~~ such participant.

Sec. 13. SELECTION OF A DESIGNATED ENTITY. The department of public health shall utilize a competitive process to select a designated entity to administer and govern the Iowa health information network.

Sec. 14. CONTINUATION OF PARTICIPATION AGREEMENTS. If the department of public health selects a designated entity pursuant to this division of this Act, the designated entity shall continue any agreement between an authorized participant and the Iowa health information network existing upon the transition of the assumption of the administration and governance, including but not limited to the assumption of the assets and liabilities of the Iowa health information network by the designated entity, under the same terms through completion of the original agreement period.

Sec. 15. IOWA HEALTH INFORMATION NETWORK FUND. If the department of public health selects a designated entity pursuant to this division of this Act, any moneys remaining in the Iowa health information network fund established pursuant to section 135.156C, Code 2015, that are obligated or encumbered for expenses related to the Iowa health information network prior to the assumption of the administration and governance, including but not limited to the assumption of the assets and liabilities, of the Iowa health information network by the designated entity, shall be retained by the department. The remainder of the moneys in the fund shall be transferred to the designated entity upon the assumption of the administration and governance of the Iowa health information network.

Sec. 16. TRANSFER OF ASSETS AND LIABILITIES AND ADMINISTRATIVE RESPONSIBILITIES TO THE DESIGNATED ENTITY. If the department of public health selects a designated entity pursuant to this division of this Act, the department shall continue to provide administrative support to the Iowa health information network as provided in section 135.156, Code 2015, until such time as the designated entity assumes such responsibilities. Upon selection of the designated entity, the assets and liabilities of the Iowa health information network shall be transferred to the designated entity.

Sec. 17. EFFECTIVE UPON ENACTMENT. This division of this

Act, being deemed of immediate importance, takes effect upon enactment.

KRAIG PAULSEN
Speaker of the House

PAM JOCHUM
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 381, Eighty-sixth General Assembly.

CARMINE BOAL
Chief Clerk of the House

Approved _____, 2015

TERRY E. BRANSTAD
Governor